

Date: 9-12-18

Re: New PRP, which has not yet been given a cause number.

Dear Clerk:

Please file and submit this new PRP. There is a motion for in forma pauperis review inside the PRP, on its last page.

INDEX OF ENCLOSED DOCUMENTS:

1. This letter.
2. An initial PRP.
3. A motion for production of discovery and Trial Court records.

Thank you very much.

RECEIVED
SEP 17 2018

Respectfully,

CLERK OF COURT OF APPEALS DIV II
STATE OF WASHINGTON

Eino Fox

DOC # 331675, Cell # F209, MCC-SOU, PO Box 514,
Monroe, WA 98272.

Print Name: Eino Fox

Pierce County Superior Court No. 12-1-02627-2

FILED
COURT OF APPEALS
DIVISION II
2018 SEP 17 AM 8:37
STATE OF WASHINGTON
BY HB
DEPUTY

No. _____

COURT OF APPEALS DIVISION TWO FOR WASHINGTON STATE

In Re The PRP Of: Finos Fox

PERSONAL RESTRAINT PETITION

Pierce County Superior Court No. 12-1-02627-2

PROCEDURAL HISTORY

The petitioner's judgment and sentence is attached. He has not filed any collateral attacks and did not file a direct appeal. The petition is not barred because the petitioner's claims are that the J and S is invalid on its face and double jeopardy and in excess of the court's sentencing jurisdiction.

STATEMENT OF THE CASE

The petitioner was convicted of sentenced for four counts of assault three but there was only one alleged act or event of assault. The Trial Judge had made a finding that there was insufficient evidence to charge the defendant with using a weapon or having a weapon during the crime and directed the state to change his charges to something without a weapon. The defendant eventually plead guilty on the day he went to court to do jury voir dire. He was given a 240 month sentence for the four counts of assault three in violation of statutory sentencing laws and double jeopardy.

GROUND ONE: THE JUDGMENT AND SENTENCE IS INVALID ON ITS FACE
AND/OR IN EXCESS OF THE COURT'S SENTENCING JURISDICTION

The petitioner's J and S is facially invalid and/or in excess of the court's sentencing jurisdiction because there lacks a sufficient factual basis to impose an exceptional sentence. The court is still required to have a factual basis for imposing an exceptional sentence when the defendant stipulates to an exceptional sentence. There were no facts to support an exceptional sentence. Further, there are no facts in the J and S regarding this, just merely a conclusion. Additionally, the Judge had not stated facts that would constitute an exceptional sentence. It is clearly established that a defendant may not stipulate to an unlawful sentence. See RCW 9.94A.535 and .537.

The defendant's J and S states the standard sentence range is 33-43 months, but, he was sentenced to 60 months on each of four counts, for a total of 240 months.

Further, the defendant did not get the benefit of the plea bargain because the court had already made a finding that there was insufficient evidence to charge the defendant with using a weapon, thus, a higher charge or sentence enhancement would not have been available to the state because the state did not appeal this ruling. Additionally, this would not be the benefit of the plea bargain because it would have been collateral estoppel, thus double jeopardy, to charge the defendant with a crime as an element, so, the

state's removal of assault one with a deadly weapon was not even a legal charge, thus no benefit of the bargain.

Additionally, there was no benefit of the bargain because since the J and S says his range was 33 to 43 months, then these same point calculation would only leave a standard sentence range of 132 - 172 months for an assault one conviction, which is actually lower than the defendant got on this 240 month sentence.

The appropriate remedy is re-sentencing within the standard sentence range.

Additionally, this sentence is clearly excessive even if some sort of exceptional sentence is allowed because there are no facts to support this extreme of an aggravating sentence. Thus, this Court should review the excessiveness of the sentence also, as there exists no facts to imply this extreme of a sentence and also because the Trial Court did not make any factual findings to support this.

GROUND TWO: THE JUDGMENT AND SENTENCE IS INVALID ON ITS FACE
AND IN VIOLATION OF THE COURT'S SENTENCING JURISDICTION
BECAUSE THE SENTENCE IS MANDATED TO BE RAN CONCURRENT BUT IS
RAN CONSECUTIVE

RCW 9.94A.589, states in pertinent part: "...Sentences imposed under this subsection shall be served concurrently. Consecutive sentences may only be imposed under the exceptional sentence provisions of RCW 9.94A.535. "same criminal conduct," as used in this subsection, means two more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim...."

The maximum sentence for assault three is five years, but, actually he can only get less than five years because it must be consistent with the standard sentence range, but, the focus in this ground is that the sentences were ran consecutive when it is mandatory that they be concurrent in the defendant's situation. Therefore, the petitioner's sentence is invalid per RCW 10.73.090, and in excess of the court's jurisdiction in RCW 10.73.100(5).

There was only one victim, one event, one intent, and one time and place.

The appropriate remedy is re-sentencing for concurrent sentences.

GROUND THREE: THE CONVICTIONS ARE DOUBLE JEOPARDY BECAUSE
THERE ARE MULTIPLE CONVICTIONS FOR A SINGLE VIOLATION OR ACT

This is a violation of double jeopardy because there was only one alleged incident, which was a physical altercation between the defendant and the victim, and the defendant was convicted of and sentenced for four assault third degree charges.

It is double jeopardy to give multiple convictions for violating a single statute. See *United States v. Universal C.I.T. Credit Corp.*, 344 U.S. 218, 221-24 (1952) (Double jeopardy violated because charges brought against company for numerous instances of violations, broken down, should of only been charged with one violation per violated statutory provision.)

The Washinton statute for assault three does not intend to provide separate charges for one act of assault three. See, *Universal*, supra., at 221-24. (When construing criminal provisions, the relevant question is what the legislation intended to be an "allowable unit of prosecution".)

There were not any facts or even allegations that the defendant did multiple attacks or assaults on the victim. The allegations claimed that there was one event (or altercation).

It's clearly established that multiple punishments for the same offense violates the Double Jeopardy Clause. See, *Ohio v. Johnson*, 467 U.S. 493 (1984).

The appropriate remedy is vacation of the last three convictions of assault three and re-sentencing.

GROUND FOUR: DOUBLE JEOPARDY WAS VIOLATED ON THE GROUNDS OF
COLLATERAL ESTOPPEL

The double jeopardy clause encompasses the doctrine of collateral estoppel. See *Ashe v. Swenson*, 397 U.S. 436 (1970) (Double jeopardy by collateral estoppel when an issue of ultimate fact has once been determined by a valid and final judgment.)

The trial judge had made a ruling that there was insufficient evidence that the defendant had a weapon during the alleged crime, and directed the state to change the charges. The state did change the charges to assault three, but, the only conceivable alternative element (or means) relevant to the defendant's case is the element of using a weapon. The State did not appeal the courts finding of insufficient evidence of the "ultimate fact" of having a weapon during the crime, thus, that became a valid and final finding, and the defendant may not be re-charged with a crime that requires the "ultimate fact" of having a weapon as an element (unless, of course there is new evidence).

The appropriate remedy is vacation of the assault threes.

ADDENDUM

1. Regarding the facial invalidity about there being insufficient facts and reasons. Even if a stipulation may be substantial and compelling for an exceptional sentence it is not always sufficient, and there are no facts in existence for a reasonable jurist to find that an exceptional sentence is in compliance with the purpose of the SRA. The appropriate remedy is clearly established to be a remand when the sentencing court fails to enter "written" facts and reasons found to support an exceptional sentence. While the J and S states that the defendant stipulated, it does not state and facts about the crime that fit the requirements of the SRA for exceptional sentences.

Further, no facts exist to justify an exceptional sentence thus it was reversible error for the court to accept the defendant's stipulation. A defendant may not, per clearly established law plead to an unlawful sentence and then be bound by it.

Further, 240 months is clearly excessive, even for an exceptional sentence. There was no conduct above what is normally associated with an assault, thus, no exceptional sentence is allowed as a matter of law, thus, the sentence is beyond the court's jurisdiction and/or authority, and is therefore invalid on its face and also permitted to be reviewed under the exceptions to the time bar in RCW

10.73.100.

As, argued above a sentencing court must correct an unlawful sentence and there is no time bar. See, *In re Carle*, 93 Wn.2d 31, 33, 604 P.2d 1293 (1980)("When a sentence has been imposed for which there is no authority in law, the trial court has the power and duty to correct the erroneous sentence, when the error is discovered.")

Further, as argued above a defendant may not plead to a sentence in which there is no authority in law and then be bound by it. See, *In re PRP of Goodwin*, 146 Wn.2d 861, 50 P.3d 618 (2002)(..."a defendant cannot agree to punishment in excess of that which the Legislature has established.") This petitioner's sentence is in excess of what is established by statutory legislation, and because there are no facts existing to (1) justify an exceptional sentence, and (2) if the Court does find that there is a basis for an exceptional sentence, still, this sentence would be "clearly excessive". Further, the judgment has no written particular and specific facts and is thus unlawful on its face. See, *State v. Friedlund*, 182 Wn.2d 388, P.3d 280 (2015)(At 393: "We hold that the entry of written findings is essential when a court imposes an exceptional sentence.")

2. Regarding the double jeopardy issue for multiple counts and convictions of assault three on the same victim. This is double jeopardy because it was one impulse and continuous or simultaneous. The factual reports will be able to verify

this, and that the defendant did not come back at different times or break in time during incident. See, State v Mulch, 171 Wn.2d 646, 654-55 (2010)(Distinguished 'simultaneous or continuous' from sequential acts.) The defendant was not even accused of or alleged by anyone to have done sequential or multiple act or assaults.

3. There is an exception to sentences or convictions that are unlawful in regards to the specific statute or facts they are convicted of, this is the doctrine of the benefit of the plea bargain. But, in this case, the defendant did not get the benefit of the plea bargain because the assault one charge carried a lesser sentence, than these four counts of assault three that are unlawful on multiple grounds.

MOTION FOR IN FORMA PAUPERIS REVIEW

The defendant fits the standard for indigency in GR 34. See attached statment of finances.

OATH OF PETITIONER

I declare under the penalty of perjury of the State of Washington that I am the petitioner, I have read the petition, know its contents, and believe it to be true.

Erin Fox
Erin Fox

Date: 9-12-18

II. DECLARATION

STATE OF WASHINGTON)
) ss
COUNTY OF)

I, Finos Fox, declare that I am the

petitioner in the above entitled case, that in support of my motion to proceed without being required to prepay fees, costs, or give security, I state that because of my poverty I am unable to pay the costs of said proceeding and/or proceedings or give security; therefore, I believe that I am entitled to proceed *in forma pauperis*.

In further support of this application, I answer all of the following questions:

1. Are you presently employed? YES ☒ NO ☐

a. If the answer is "YES", state the amount of your salary or wages per month, and identify your employer (List gross and net salary):

about 55/mort

b. If the answer is "NO", state the date of last employment and the amount of the salary and wages per month which you received:

2. Have you received within the past twelve months any money from any of the following sources?

a. Business, profession of other form

about my institutional account, including balances, deposits, and
withdrawals. I understand that a false statement or answer to any question
in this declaration will subject me to penalties for perjury, and I declare
under penalty of perjury under the laws of the State of Washington, that
the foregoing is true and correct.

I declare under pain and penalty of perjury, under the laws of the
State of Washington, that the foregoing is true and correct to the best of
my knowledge.

DATED this 12 day of September, 2018

(Print) Finos Fox

Pro se.

DOC# 331675

Unit

F209Lef7

Monroe Correctional Complex

(Street address)

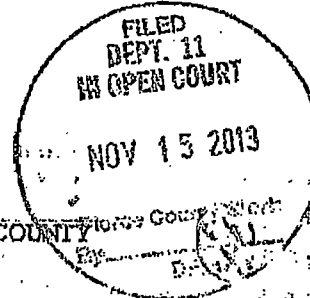
P.O. Box 514

Monroe, WA 98272

Case Number: 12-1-02627-2 Date: November 19, 2013

SerialID: 716CCE2E-110A-9BE2-A9E2929EF8221F13 12-1-02627-2

Certified By: Kevin Stock Pierce County Clerk, Washington

331675
11-21-13

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 12-1-02627-2

NOV 18 2013

FINOS DALE FOX, III

Defendant.

SID: WA24473352

DOB: 12/31/1978

JUDGMENT AND SENTENCE (JS)

☒ Prison☐ RCW 9A.7120.94A.507 Prison Confinement☐ Jail One Year or Less☐ First-Time Offender☐ Special Sexual Offender Sentencing Alternative☐ Special Drug Offender Sentencing Alternative☐ Alternative to Confinement (ATC)☐ Clerk's Action Required, para 4.5 (SSOSA),

4.7 and 4.8 (SSOSA) 4.15.2, 5.3, 5.6 and 5.8

☐ Juvenile Decline ☐ Mandatory ☐ Discretionary

I. HEARING

- 1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

There being no reason why judgment should not be pronounced, the court FINDS:

- 2.1 CURRENT OFFENSE(S): The defendant was found guilty on 11-13-13
by ☒ plea ☐ jury-verdict ☐ bench trial of:

| COUNT | CRIME | RCW | ENHANCEMENT TYPE* | DATE OF CRIME | INCIDENT NO. |
|-------|--------------|-----------------|-------------------|---------------|----------------|
| I | ASLT 3 (E34) | 9A.36.031(1)(c) | NONE | 07/11/12 | PCSD 121930096 |
| II | ASLT 3 (E34) | 9A.36.031(1)(c) | NONE | 07/11/12 | PCSD 121930096 |
| III | ASLT 3 (E34) | 9A.36.031(1)(c) | NONE | 07/11/12 | PCSD 121930096 |
| IV | ASLT 3 (E34) | 9A.36.031(1)(c) | NONE | 07/11/12 | PCSD 121930096 |

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Horn, See RCW 46.61.520, (JP) Juvenile present, (SM) Sexual Motivation, (SCF) Sexual Conduct with a Child for a Fee. See RCW 9.94A.533(8). (If the crime is a drug offense, include the type of drug in the second column.)

as charged in the AMENDED Information

JUDGMENT AND SENTENCE (JS)

(Felony) (7/2007) Page 1 of 11

13-9-12125-6

Office of Prosecuting Attorney
930 Tacoma Avenue S. Room 946
Burien, Washington 98402-2171
Telephone: (253) 798-7400

Case Number: 12-1-02627-2 Date: November 19, 2013
Sentenced: 716CCE2E-110A-9BE2-A9E2929EF8221F1312-1-02627-2
Certified By: Kevin Stock Pierce County Clerk, Washington

- [] Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- [] Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

2.2 CRIMINAL HISTORY (RCW 9.94A.525):

| CRIME | DATE OF SENTENCE | COURT (County & State) | SENTENCING | DATE OF ADJUT | TYPE |
|---------------------------|------------------|------------------------|------------|---------------|-------|
| CRIME | 07/10/98 | HOUMA, LA | 02/24/99 | ADJUT | CRIME |
| ILLEGAL USE OF WEAPON (3) | 06/11/09 | PIERCE, WA | 04/11/10 | ADJUT | CRIME |
| ASLT 2 | | | | ADJUT | CRIME |

- [] The court finds that the following prior convictions are used to determine the offender score (RCW 9.94A.525):

2.3 SENTENCING DATA:

| COUNT NO. | OFFENDER SCORE | SERIOUSNESS LEVEL | STANDARD RANGE (not including enhancements) | PLUS ENHANCEMENTS (including enhancements) | TOTAL STANDARD RANGE | MAXIMUM TERM |
|-----------|----------------|-------------------|---|--|----------------------|--------------|
| I | 7 | III | 33-43 MONTHS | NONE | 33-43 MONTHS | 5 YRS |
| II | 7 | III | 33-43 MONTHS | NONE | 33-43 MONTHS | 5 YRS |
| III | 7 | III | 33-43 MONTHS | NONE | 33-43 MONTHS | 5 YRS |
| IV | 7 | III | 33-43 MONTHS | NONE | 33-43 MONTHS | 5 YRS |

For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are [] attached [] as follows: N/A

2.4 [] EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence:

[] within [] below the standard range for Count(s) 1, 2, 3, 4
[] above the standard range for Count(s) 1, 2, 3, 4
The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence further and is consistent with the interests of justice and the purposes of the sentencing reform act.

[] Aggravating factors were [] stipulated by the defendant, [] found by the court after the defendant waived jury trial, [] found by jury by special interrogatory.

Findings of fact and conclusions of law are attached in Appendix 2.4. [] Jury's special interrogatory is attached. The Prosecuting Attorney [] did [] did not recommend a similar sentence.

2.5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS. The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

[] The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

[] The following extraordinary circumstances exist that make payment of nonmonetary legal financial obligations inappropriate:

Case Number: 12-1-02627-2 Date: November 19, 2013

SerialID: 716CCE2E-110A-9BE2-A9E2929EF8221F13 12-1-02627-2

Certified By: Kevin Stock Pierce County Clerk, Washington

2.6 ☐ **FELONY FIREARM OFFENDER REGISTRATION.** The defendant committed a felony firearm offense as defined in RCW 9A1.010.

☐ The court considered the following factors:

☐ the defendant's criminal history;

☐ whether the defendant has previously been found not guilty by reason of insanity of any offense in this state or elsewhere;

☐ evidence of the defendant's propensity for violence that would likely endanger persons;

☐ other: _____

☐ The court decided the defendant ☐ should ☐ should not register as a felony firearm offender.

III. JUDGMENT

3.1 The defendant is **GUILTY** of the Counts and Charges listed in Paragraph 2.1.

3.2 ☐ The court **DISMISSES** Counts _____ ☐ The defendant is found **NOT GUILTY** of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court: (Pierce County Clerk, 930 Tacoma Ave #110, Tacoma WA 98402)

JASS CODE

| | | |
|--------|---|---|
| RTNRJN | \$ _____ | Restitution to: _____ |
| | \$ _____ | Restitution to: _____ |
| | (Name and Address—address may be withheld and provided confidentially to Clerk's Office). | |
| PCV | \$ 500.00 | Crime Victim assessment |
| DNA | \$ 100.00 | DNA Database Fee |
| PUE | \$ 500. ⁰⁰ | Court-Appointed Attorney Fees and Defense Costs |
| FRC | \$ 200.00 | Criminal Filing Fee |
| FCM | \$ _____ | Fine |

OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)

\$ _____ Other Costs for: _____

\$ _____ Other Costs for: _____

\$ 1300.⁰⁰ TOTAL

☒ The above total does not include all restitution which may be set by later order of the court. An agreed restitution order may be entered. RCW 9A4A.753. A restitution hearing:

☐ shall be set by the prosecutor.

☒ is scheduled for 1/3/2014

☐ **RESTITUTION.** Order Attached

JUDGMENT AND SENTENCE (JS)

(Felony) (7/2007) Page 3 of 11

Office of Prosecuting Attorney
930 Tacoma Avenue S. Room 946
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400

Case Number: 12-1-02627-2 Date: November 19, 2013

SerialID: 716CCE2E-110A-98E2-A9E2929EF8221F13 12-1-02627-2

Certified By: Kevin Stock Pierce County Clerk, Washington

[] The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(9).

[X] All payments shall be made in accordance with the policies of the clerk, commencing immediately, unless the court specifically sets forth the rate herein: Not less than \$ per clerk per month commencing per clerk. RCW 9.94.760. If the court does not set the rate herein, the defendant shall report to the clerk's office within 24 hours of the entry of the judgment and sentence to set up a payment plan.

The defendant shall report to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested. RCW 9.94A.760(7)(b)

[] **COSTS OF INCARCERATION.** In addition to other costs imposed herein, the court finds that the defendant has or is likely to have the means to pay the costs of incarceration, and the defendant is ordered to pay such costs at the statutory rate. RCW 10.01.160.

COLLECTION COSTS The defendant shall pay the costs of services to collect unpaid legal financial obligations per contract or statute. RCW 36.18.190, 9.94A.780 and 19.16.500.

INTEREST The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090

COSTS ON APPEAL. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.1b **ELECTRONIC MONITORING REIMBURSEMENT.** The defendant is ordered to reimburse _____ (name of electronic monitoring agency) at _____ for the cost of pretrial electronic monitoring in the amount of \$ _____.

4.2 [X] **DNA TESTING.** The defendant shall have a blood/biological sample drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or DOC, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

[] **HIV TESTING.** The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. RCW 70.24.340.

4.3 **NO CONTACT**

The defendant shall not have contact with _____ (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for _____ years (not to exceed the maximum statutory sentence).

[] Domestic Violence No-Contact Order, Antiharassment No-Contact Order, or Sexual Assault Protection Order is filed with this Judgment and Sentence

4.4 **OTHER:** Property may have been taken into custody in conjunction with this case. Property may be returned to the rightful owner. Any claim for return of such property must be made within 90 days. After 90 days, if you do not make a claim, property may be disposed of according to law.

| |
|---|
| No Contact with Defendant Victim and Witnesses |
| |
| |
| |
| |
| |
| |

Case Number: 12-1-02627-2 Date: November 19, 2013

SerialID: 716CCE2E-110A-9BE2-A9E2929EF8221F13 12-1-02627-2

Certified By: Kevin Stock Pierce County Clerk, Washington

4.4a ☐ All property is hereby forfeited

☐ Property may have been taken into custody in conjunction with this case. Property may be returned to the rightful owner. Any claim for return of such property must be made within 90 days. After 90 days, if you do not make a claim, property may be disposed of according to law.

4.4b BOND IS HEREBY EXONERATED

4.5 CONFINEMENT OVER ONE YEAR. The defendant is sentenced as follows:

(a) CONFINEMENT. RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

| | |
|--------------------------------------|--------------------------------------|
| <u>60</u> months on Count <u>I</u> | <u>60</u> months on Count <u>III</u> |
| <u>60</u> months on Count <u>II</u> | _____ months on Count _____ |
| <u>60</u> months on Count <u>III</u> | _____ months on Count _____ |

Actual number of months of total confinement ordered is: 240 months

(Add mandatory firearm, deadly weapons, and sexual motivation enhancement time to run consecutively to other counts; see Section 2.3, Sentencing Data, above).

☐ The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.

CONSECUTIVE/CONCURRENT SENTENCES. RCW 9.94A.589. All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm, other deadly weapon, sexual motivation, VUCSA in a protected zone, or manufacture of methamphetamine with juvenile present as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: Count I, II, III, IV shall run consecutively to each other.

The sentence herein shall run consecutively to all felony sentences in other cause numbers imposed prior to the commission of the crime(s) being sentenced. The sentence herein shall run concurrently with felony sentences in other cause numbers imposed after the commission of the crime(s) being sentenced except for the following cause numbers. RCW 9.94A.589: _____

Confinement shall commence immediately unless otherwise set forth here: _____

(c) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: 492

JUDGMENT AND SENTENCE (JS)

(Felony) (7/2007) Page 5 of 11

Office of Prosecuting Attorney
930 Tacoma Avenue S. Room 946
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Telephone: (253) 798-7400

Case Number: 12-1-02627-2 Date: November 19, 2013

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4.6 ☐ **COMMUNITY PLACEMENT** (pre 7/1/00 offenses) is ordered as follows:

Count _____ for _____ months;

Count _____ for _____ months;

Count _____ for _____ months;

☐ **COMMUNITY CUSTODY** (To determine which offenses are eligible for or required for community custody see RCW 9.94A.701)

(A) The defendant shall be on community custody for the longer of:

(1) the period of early release RCW 9.94A.728(1)(2); or

(2) the period imposed by the court, as follows:

Count(s) _____ 36 months for Serious Violent Offenses

Count(s) _____ 18 months for Violent Offenses

Count(s) _____ 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

(B) While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while in community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; (9) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706 and (10) for sex offenses, submit to electronic monitoring if imposed by DOC. The defendant's residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders not sentenced under RCW 9.94A.712 may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

The court orders that during the period of supervision the defendant shall:

☐ consume no alcohol.

☐ have no contact with: _____

☐ remain ☐ within ☐ outside of a specified geographical boundary, to wit: _____

☐ not serve in any paid or volunteer capacity where he or she has control or supervision of minors under 13 years of age

☐ participate in the following crime-related treatment or counseling services: _____

☐ undergo an evaluation for treatment for ☐ domestic violence ☐ substance abuse

☐ mental health ☐ anger management and fully comply with all recommended treatment.

☐ comply with the following crime-related prohibitions: _____

JUDGMENT AND SENTENCE (JS)

(Felony) (7/2007) Page 6 of 11

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[] Other conditions:

[] For sentences imposed under RCW 9.94A.702, other conditions, including electronic monitoring, may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by DOC. Emergency conditions imposed by DOC shall not remain in effect longer than seven working days.

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

PROVIDED: That under no circumstances shall the total term of confinement plus the term of community custody actually served exceed the statutory maximum for each offense.

4.7 [] **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.

4.8 **OFF LIMITS ORDER (known drug trafficker)** RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections:

V. NOTICES AND SIGNATURES

5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100, RCW 10.73.090.

5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505. The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections or the clerk of the

JUDGMENT AND SENTENCE (JS)
(Felony) (7/2007) Page 7 of 11

Office of Prosecuting Attorney:
930 Tacoma Avenue S. Room 946
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400

Case Number: 12-1-02627-2 Date: November 19, 2013

SerialID: 716CCE2E-110A-9BE2-A9E2929EF8221F1312-1-02627-2

Certified By: Kevin Stock Pierce County Clerk, Washington

court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7605.

5.4 RESTITUTION HEARING.

[] Defendant waives any right to be present at any restitution hearing (sign initials): _____

5.5 CRIMINAL ENFORCEMENT AND CIVIL COLLECTION. Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. Per section 2.5 of this document, legal financial obligations are collectible by civil means. RCW 9.94A.624.

5.6 FIREARMS. You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identification, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.

5.7 SEX AND KIDNAPPING OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200.

N/A

5.8 [] The court finds that Count _____ is a felony in the commission of which a motor vehicle was used. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke the defendant's driver's license. RCW 46.20.285.

//

//

//

JUDGMENT AND SENTENCE (JS)
(Felony) (7/2007) Page 8 of 11

Office of Prosecuting Attorney
930 Tacoma Avenue S. Room 946
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400

Case Number: 12-1-02827-2 Date: November 19, 2013

SerialID: 716CCE2E-110A-9BE2-A9E2929EF8221F13 12-1-02827-2

Certified By: Kevin Stock Pierce County Clerk, Washington

5.9 If the defendant is or becomes subject to court-ordered mental health or chemical dependency treatment, the defendant must notify DOC and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. RCW 9.94A.562.

5.10 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: 11-15-2013

JUDGE

Print name

John A. McCarthy

Deputy Prosecuting Attorney

Print name: J. C. 43

Attorney for Defendant

Print name: Mark Quigley

WSB# 26045

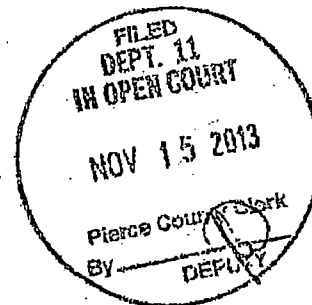
WSB# 74426

Defendant

Print name: Kinoy D. Foy III

VOTING RIGHTS STATEMENT: RCW 19.64.140. I acknowledge that my right to vote has been lost due to felony convictions. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: a) A certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) A court order issued by the sentencing court restoring the right, RCW 9.92.066; c) A final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) A certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 92A.84.660.

Defendant's signature: Kinoy D. Foy III



JUDGMENT AND SENTENCE (JS)

(Felony) (7/2007) Page 9 of 11

Office of Prosecuting Attorney
930 Tacoma Avenue S. Room 946
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400

Case Number: 12-1-02627-2 Date: November 19, 2013
 SerialID: 716CCE2E-110A-9BE2-A9E2929EF8221F1312-1-02627-2
 Certified By: Kevin Stock Pierce County Clerk, Washington

CERTIFICATE OF CLERK

CAUSE NUMBER of this case: 12-1-02627-2

I, KEVIN STOCK Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

WITNESS my hand and seal of the said Superior Court, affixed this date: _____

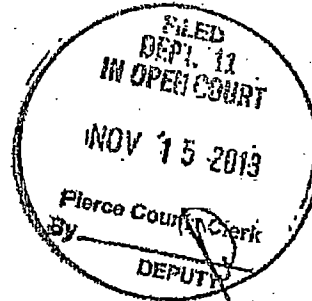
Clerk of said Court, by: _____, Deputy Clerk

IDENTIFICATION OF COURT REPORTER

CATHY SCHAMLI

Court Reporter

COURT REPORTER

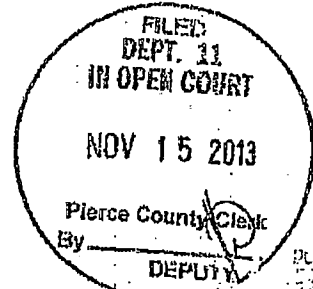


JUDGMENT AND SENTENCE (JS)
 (Felony) (1/2007) Page 10 of 11

Office of Prosecuting Attorney
 930 Tacoma Avenue S. Room 946
 Tacoma, Washington 98402-2171
 Telephone: (253) 798-7400

Case Number: 12-1-02627-2 Date: November 10, 2013
 SerialID: 716CCE2E-110A-9BE2-A9E2929EF8221F13 12-1-02627-2
 Certified By: Kevin Stock Pierce County Clerk, Washington

IDENTIFICATION OF DEFENDANT



SID No. WA24473352
 (If no SID take fingerprint card for State Patrol)

Date of Birth 12/31/1978

FBI No. 258980JB0

Local ID No. UNKNOWN

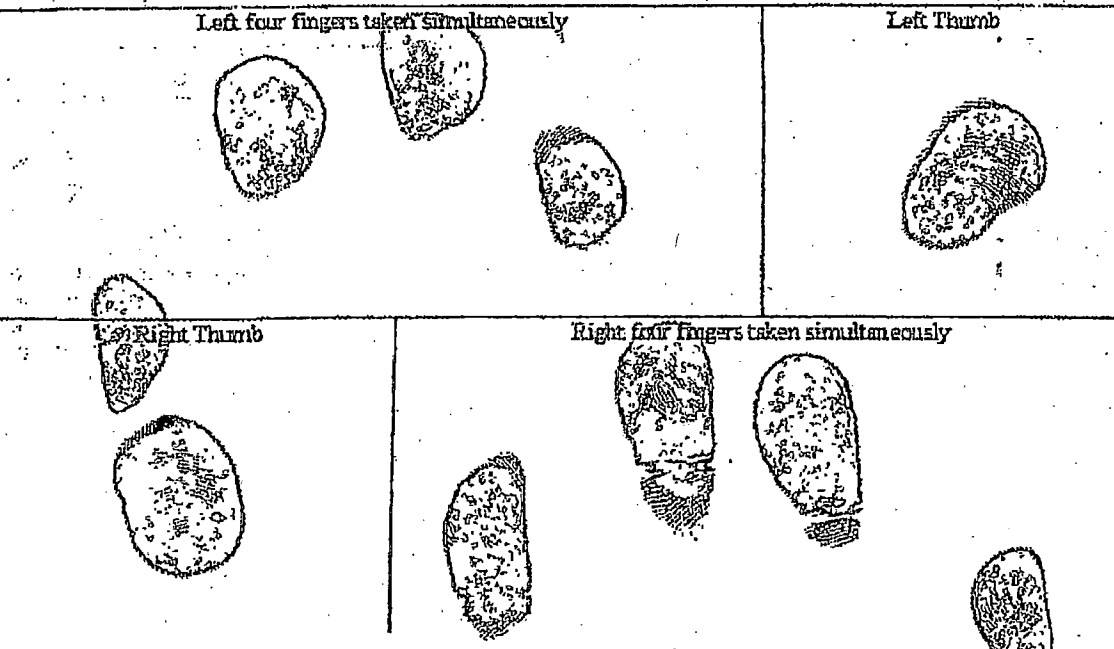
PCID No. UNKNOWN

Other

Allegations, SSN, DOB

| | | |
|---|---|---|
| Race: <input type="checkbox"/> Asian/Pacific Islander <input checked="" type="checkbox"/> Black/African-American <input type="checkbox"/> Caucasian <input type="checkbox"/> Native American <input type="checkbox"/> Other: | Ethnicity: <input type="checkbox"/> Hispanic <input checked="" type="checkbox"/> Non-Hispanic | Sex: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female |
|---|---|---|

FINGERPRINTS



I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court, Deputy Clerk, [Signature] Dated: 11/15/13

DEFENDANT'S SIGNATURE: [Signature]

DEFENDANT'S ADDRESS: _____

JUDGMENT AND SENTENCE (JS)
 (Felony) (7/2007) Page 11 of 11

Office of Prosecuting Attorney
 930 Tacoma Avenue S. Room 946
 Tacoma, Washington 98402-2171
 Telephone: (253) 798-7400

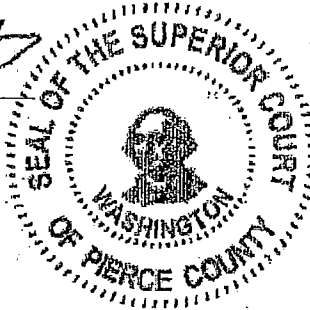
State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 19 day of November, 2013



Kevin Stock, Pierce County Clerk

By /S/Magdalena Montiel, Deputy.

Dated: Nov 19, 2013 9:30 AM



Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,
enter **SerialID: 716CCE2E-110A-9BE2-A9E2929EF8221F13**.

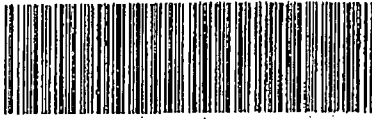
This document contains 13 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

11/19/2013 23263 360175

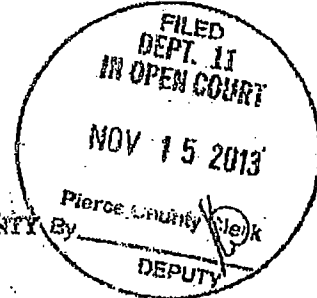
Case Number: 12-1-02627-2 Date: November 19, 2013

SerialID: 716E22B1-F20F-6452-DA731DAD660FF0FE 12-1-02627-2

Certified By: Kevin Stock Pierce County Clerk, Washington



12-1-02627-2 41573302 ACAT 11-18-13



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 12-1-02627-2

vs.

FINOS DALE FOX, III

Defendant.

ADVICE OF RIGHT TO APPEAL

RIGHT TO APPEAL

Judgment and Sentence having been entered, you are now advised that:

- 1.1 You have the right to appeal your conviction(s). If you have entered a guilty plea, you have waived your right to raise certain issues, as discussed in your guilty plea statement, in an appeal. ☒ You have a right to appeal any sentence that is outside the standard sentence range. ☒ You also have a right to appeal rulings on other post convictions motions as listed in Rules of Appellate Procedure 2.2.
- 1.2 Unless a notice of appeal is filed with the clerk of the court within thirty (30) days from the entry of judgment or the order appealed from, you have irrevocably waived your right of appeal.
- 1.3 The clerk of the Superior Court will, if requested by you, file a notice of appeal on your behalf.
- 1.4 If you cannot afford the cost of an appeal, you have the right to have a lawyer appointed to represent you on appeal and to have such parts of the trial record as are necessary for review of errors assigned transcribed for you, both at public expense.

ADVICE OF RIGHT TO APPEAL - 1

Office of Prosecuting Attorney
930 Tacoma Avenue S. Room 946
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400

Case Number: 12-1-02627-2 Date: November 19, 2013

SerialID: 716B22B1-F20F-6452-DA731DAD660FF0FE

12-1-02627-2

Certified By: Kevin Stock Pierce County Clerk, Washington

ACKNOWLEDGMENT

Regarding the foregoing advice of my "Right to Appeal":

1. I understand these rights; and
2. I waive formal reading of these rights; and
3. I acknowledge receipt of a true copy of these rights

DATE: 11/15/13

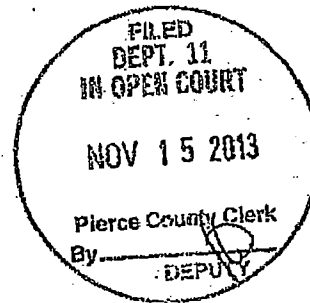
DEFENDANT: Wm2 SO, P. 151

DEFENDANT'S ATTORNEY: 14496

DATE: 11/15/13

JUDGE: John A. McCarthy

John A. McCarthy



ADVICE OF RIGHT TO APPEAL - 2

Office of Prosecuting Attorney
 930 Tacoma Avenue S. Room 946
 Tacoma, Washington 98402-2171
 Telephone: (253) 798-7400

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.

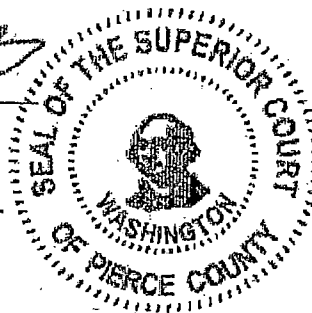
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 19 day of November, 2013



Kevin Stock, Pierce County Clerk

By /S/Magdalena Montiel, Deputy.

Dated: Nov 19, 2013 9:30 AM



Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,
enter **SerialID: 716B22B1-F20F-6452-DA731DAD660FF0FE**.

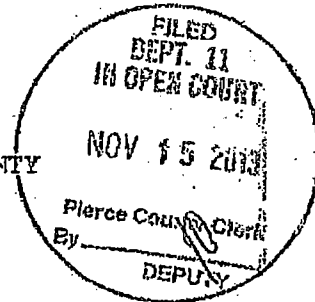
This document contains 2 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

Case Number: 12-1-02627-2 Date: November 19, 2013
 SerialID: 716B21F5-F20F-6452-D1019EF920EBC5F4
 Certified By: Kevin Stock Pierce County Clerk, Washington



12-1-02627-2 41573363 ORBS 11-10-13

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY



STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 12-1-02627-2

ERINOS DALE FOX, III

Defendant.

ORDER FOR BIOLOGICAL SAMPLE DRAW
 FOR DNA IDENTIFICATION ANALYSIS

THIS MATTER having come on regularly before the undersigned Judge for sentencing following defendant's conviction for:

[] A felony sex offense, which occurred after July 1, 1990, as defined by RCW 9A.04.030(33), to wit: _____, and/or

[] A violent offense, which occurred after July 1, 1990, as defined by RCW 9A.04.030(38), to wit: _____, and/or

[X] Any felony offense for which a conviction was obtained after July 1, 2002, to wit: Assault 3° (x4)

Pursuant to RCW 43.43.754, therefore, it is hereby ordered that the defendant provide a biological sample to be used for DNA identification analysis as follows:

PLACE TO BE TESTED

[] (Out-of-Custody) Report immediately to the Pierce County Sheriff's Office located on the 1st Floor of the County City Building, 930 Tacoma Ave S, Tacoma, Washington for a biological sample draw.

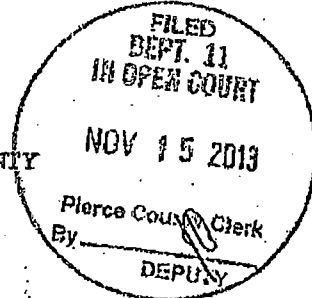
ORDER FOR BIOLOGICAL SAMPLE DRAW
 FOR DNA IDENTIFICATION ANALYSIS - 1

Office of Prosecuting Attorney
 930 Tacoma Avenue S, Room 946
 Tacoma, Washington 98402-2171
 Telephone: (253) 798-7400



Case Number: 12-1-02627-2 Date: November 19, 2013
 SerialID: 716B21F5-F20F-6452-D1019EF920EBC5F4
 Certified By: Kevin Stock Pierce County Clerk, Washington

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY



STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 12-1-02627-2

vs.

KINOS DALE FOX, III

Defendant

ORDER FOR BIOLOGICAL SAMPLE DRAW
FOR DNA IDENTIFICATION ANALYSIS

THIS MATTER having come on regularly before the undersigned Judge for sentencing following
 defendant's conviction for:

☐ A felony sex offense, which occurred after July 1, 1990, as defined by RCW
 9A.030(3), to wit: _____, and/or

☐ A violent offense, which occurred after July 1, 1990, as defined by RCW
 9A.030(3), to wit: _____, and/or

☒ Any felony offense for which a conviction was obtained after July 1, 2002, to
 wit: Assault 3rd (x4)

Pursuant to RCW 43.43.754, therefore, it is hereby ordered that the defendant provide a biological sample
 to be used for DNA identification analysis as follows:

PLACE TO BE TESTED

☐ (Out-of-Custody) Report immediately to the Pierce County Sheriff's Office located on
 the 1st Floor of the County City Building, 930 Tacoma Ave S, Tacoma, Washington for a
 biological sample draw.

ORDER FOR BIOLOGICAL SAMPLE DRAW
 FOR DNA IDENTIFICATION ANALYSIS - I

Office of Prosecuting Attorney
 930 Tacoma Avenue S. Room 946
 Tacoma, Washington 98402-2171
 Telephone: (253) 798-7490

11/19/2013 12:26:33 368178

Case Number: 12-1-02627-2 Date: November 19, 2013

SerialID: 716B21F5-F20F-6452-D1019EF920EBC5F4 12-1-02627-2

Certified By: Kevin Stock Pierce County Clerk, Washington

[] (Out-of-Custody) Contact your CCO or other DOC representative to make an appointment to submit a DNA sample. Your sample must be submitted within 60 days of today's date or the date you are released from jail, whichever comes later.

☒ (In-Custody DOC) Submit to the biological sample draw by the Department of Corrections.

[] (In-Custody PC Jail) Submit to biological sample draw by the Pierce County Jail.

DONE IN OPEN COURT this 15 day of November, 2013.

JUDGE

John A. McCarthy

Presented by:

JAMES CURTIS

Deputy Prosecuting Attorney

WSB# 36845

Approved as to form:

MARK CUNLEY

Attorney for Defendant

WSB# 14496

FINOS DALE FOX, III
Defendant

FILED
DEPT. 11
IN OPEN COURT

NOV 15 2013

Pierce County Clerk
By [Signature]
DEPUTY

ORDER FOR BIOLOGICAL SAMPLE DRAW
FOR DNA IDENTIFICATION ANALYSIS -2

Office of Prosecuting Attorney
930 Tacoma Avenue S. Room 946
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400

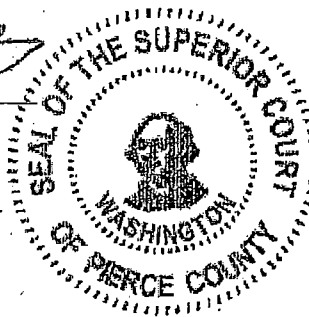
State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 19 day of November, 2013



Kevin Stock, Pierce County Clerk

By /S/Magdalena Montiel, Deputy

Dated: Nov 19, 2013 9:30 AM



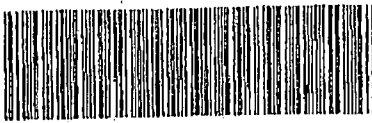
Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://lnxonline.co.pierce.wa.us/lnxweb/Case/CaseFiling/certifiedDocumentView.cfm>,
enter SerialID: 716B21F5-F20F-6452-D1019EF920EBC5F4.

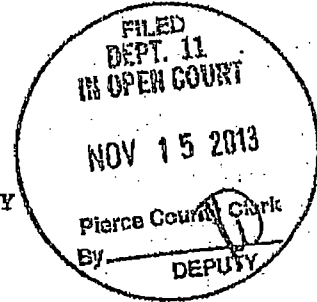
This document contains 2 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

11/19/2013 12:26:33 360179

Case Number: 12-1-02627-2 Date: November 19, 2013
SerialID: 716CCE2E-110A-9BE2-A9E2929EF8221F13
Certified By: Kevin Stock Pierce County Clerk, Washington



12-1-02627-2 41573303 JDSWCD 11-18-13



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO: 12-1-02627-2

FINOS DALE FOX, III,

Defendant

WARRANT OF COMMITMENT

- 1) ☐ County Jail
2) ☒ Dept. of Corrections
3) ☐ Other Custody

NOV 18 2013

ASH 3° (x4)

THE STATE OF WASHINGTON TO THE DIRECTOR OF ADULT DETENTION OF PIERCE COUNTY:

WHEREAS, Judgment has been pronounced against the defendant in the Superior Court of the State of Washington for the County of Pierce, that the defendant be punished as specified in the Judgment and Sentence/Order Modifying/Revoking Probation/Community Supervision, a full and correct copy of which is attached hereto

[] 1. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Pierce County Jail).

[] 2. YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections, and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence (Sentence of confinement in Department of Corrections custody).

WARRANT OF
COMMITMENT - 1

Office of Prosecuting Attorney
930 Tacoma Avenue S. Room 946
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400

Case Number: 12-1-02627-2 Date: November 19, 2013

SerialID: 716CCE2E-110A-9BE2-A9E2929EF8221F13

12-1-02627-2

Certified By: Kevin Stock Pierce County Clerk, Washington

[] 3. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for
classification, confinement and placement as ordered in the Judgment and Sentence.
(Sentence of confinement or placement not covered by Sections 1 and 2 above).

Dated: 11/15/13

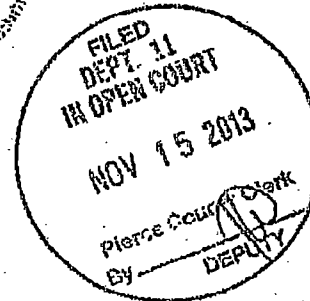
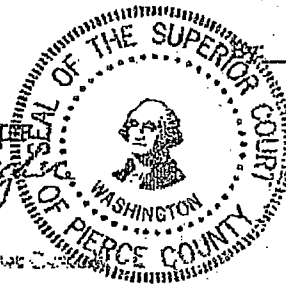
By direction of the Honorable

John A. McCarthy
JUDGE A. MCCARTHY
KEVIN STOCK
CLERK

Mehar Engler
DEPUTY CLERK

CERTIFIED COPY DELIVERED TO SHERIFF

NOV 18 2013

By *Mehar Engler* Deputy

STATE OF WASHINGTON

ss:

County of Pierce

I, Kevin Stock, Clerk of the above entitled
Court, do hereby certify that this foregoing
instrument is a true and correct copy of the
original now on file in my office.
IN WITNESS WHEREOF, I hereunto set my
hand and the Seal of Said Court this
_____ day of _____,

KEVIN STOCK, Clerk

By: _____ Deputy

dc

WARRANT OF
COMMITMENT -2

Office of Prosecuting Attorney
930 Tacoma Avenue S. Room 946
Tacoma, Washington 98402-2171
Telephone: (253) 798-7400

COURT OF APPEALS FOR DIVISION TWO FOR WASHINGTON STATE

In Re The PRP of:

Einos Fox

) No. _____

)

) MOTION FOR PRODUCTION OF

) DISCOVERY AND TRIAL RECORD

) FOR INDIGENT PETITIONER

)

An indigent petitioner is entitled to discovery and the court records that are material and necessary for his petition and the petitioner makes a showing of particular and specific reasons. See, PRP of Gentry, 137 Wn.2d 379, 972 P.2d 1250 (1999) (Explaining the criteria for post-conviction discovery.)

The petitioner needs the discovery to show the factual allegations were of a single act, event, time and place to show his convictions are double jeopardy and also to show the sentence should be concurrent because it was a single victim, time, place, and intent.

The petitioner needs the verbatim report of the proceedings to show there was an insufficient factual basis to give the defendant an exceptional sentence and is

excessive. The petitioner also needs the court file, clerk's papers, and minutes to show the factual basis for the court's findings and rulings, and also the plea agreement and facts it contained and its supporting documents. Further, the charging documents show the facts relevant to the factual basis and facial validity of the J and S, and also for showing the facts for the double jeopardy violation.

The VRP and file are also necessary to argue and address the issue of collateral estoppel and double jeopardy because it has the judge's ruling of finding an insufficient evidence for using a weapon in the crime.

Also, certain documents can be used to show the facial invalidity of the J and S. See, PRP of Hinton, 152 Wn.2d 853, 100 P.3d 801 (2004).

The petitioner has provided a separate motion to be found indigent for the PRP review, and, thus, requests the Court to use that finding to support the waiving of fees and costs for production of said records.

Erin Fox
Erin Fox

Date: 9-12-18